REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1, 2 and 7 are rejected under 35 U.S.C. 102(b) over the patent to Woodford.

At the same time the claims are not rejected over the art.

The Examiner's indication of the allowability of claims 3-6 and 8-12 has been gratefully acknowledged. In connection with this, claim 3 has been replaced with claim 13 which combines the features of the original claims 1 and 3, claim 4 has been replaced with a new claim 14 which combines the features of the original claims 1, 2 and 4, claim 5 has been amended to depend on claim 14, claim 6 has been replaced with a new claim 15 which combines the features of the original claims 1, 2 and 6, claim 8 has been replaced with new claim 16 which combines the features of the original claims 1, 2 and 8, claim 9, 10, 11 have been amended to depend on claim 13, and claim 12 has been retained with its dependency of claim 10. It is believed that all above mentioned claims are now in allowable condition.

After carefully considering the Examiner's rejection of the claims over the art, applicants have amended claim 1, the broadest claim on file, so as to more clearly define the present invention and to distinguish it from the reference.

It is respectfully submitted that claim 1 as amended clearly and patentably distinguish the present invention from the prior art. The new features of the amended claim 1 are disclosed on page 5, ultimate paragraph, through page 6, first paragraph as well as page 8 third and fourth paragraph.

It is disclosed there that collector elements 16 in the form of moving belts and plates or similar can be provided and that in both cases means for charging the collector elements as well as means for removing dust from the collector plates are provided. Further, according to page 3, third paragraph, the invention serves at the one hand to attract dust by means of the collector element and on the other hand to remove dust having accumulated on the collector element. It is, therefore, possible to avoid excessive accumulation of dust on the collector element which would remarkably deteriorate the dust attracting capability of the collector element.

Turning now to the Examiner's rejection of the claims over the art, and in particular the patent to Woodford, it is correct that in the reference a plexiglass cylinder is shown which is said to be more or less charged in dependence upon the relative humidity of the room. Woodford further says that the plexiglass shield retains a slight static charge which further assists in preventing lint and fly from depositing in critical areas of the machine. It follows therefrom that the plexiglass shield has only a small dust attracting capability.

It is further to note that Woodford neither teaches to provide means for charging the shield 17 nor discloses any means for removing dust collected with the shield. The characteristic that the charge of the shield changes with the humidity can not be said to be a "means for charging" the shield. Further, the Examiner refers insofar to means 20 as a dust removing means. It should, however, be appreciated that according to column 4, lines 31-39 of the Woodford patent, blower 20 only is said to be directed at the yarn cones, stop motion devices, positive feed means, ballooner guide rings and the top guides of the plexiglass shield (according to column 3, lines 67-72 those top guides being the eyelets 15). Also according to column 4, lines 37-39 of Woodford, upon rotation of the arms of the blower 20, these parts of the machine will be subjected to a stream of air assisting in the removal

of lint and fly. Thus, it is not said that the blower positively acts to remove dust from the shield 17 but only to remove dust from the parts mentioned above (yarn cones, stop motion devices etc.). Nothing is said in the Woodford patent with respect to charging, the dust accumulation and the removing of dust as far as shield 17 is concerned.

It should be further emphasized that according to the teaching of Woodford an improved creel is provided for preventing accumulation of lint and fly and to prevent it from falling onto the critical operation parts of the creel and the machine (see e.g. column 1, ultimate paragraph). The shield member, therefore, is not only a means for slightly collecting loose fibres but also a means for shielding the machine and for preventing lint and fly from being directed to critical parts, i.e. the shield predominantly acts as a mechanical barrier for lint and fly.

In contrast, the device of the present invention is periodically and positively charged for being able to attract dust and also treated to remove accumulated dust. It is, therefore, possible to maintain a high dust attracting capability for a long time.

The Examiner rejected original claim1 over the patent to Woodword as being anticipated. In connection with this, it is believed to be advisable to cite the decision in re Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

> "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the patent to Woodword does not have all elements as in the applicant's invention, and therefore the anticipation rejection should be considered as no longer tenable with respect to the amended claim 1 and should also be withdrawn.

The present invention also can not be considered as obvious from the patent to Woodword. This reference does not contain any hint or suggestion for such new features and therefore in order to arrive at the applicant's invention from the teaching of this reference the reference has to be fundamentally modified by including into it the features which were first proposed by the applicants. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

> Prior patents are references only for what they clearly disclose or suggestion; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Finally, as explained herein above, the present invention as defined in claim 1 provides for the highly advantageous results which can not be accomplished by the construction disclosed in the references. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

> Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 1 should also be considered as patentably distinguishing

over the art and should also be allowed, together with claims 2 and 7 which depend on it.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

Michael J. Striker
Attorney for Applicants
Reg. No. 27233